

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

FILED

MAY 02 2013

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
DEPUTY CLERK

UNITED STATES OF AMERICA

v.

CRIMINAL COMPLAINT

HOWARD SUTTON

CASE NUMBER:

W13-124M

I, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief.

On or about May 1, 2013, in Bell County, in the Western District of Texas, defendant(s), unlawfully, knowingly, and intentionally did possess with intent to distribute a controlled substance, which offense involved a mixture or substance containing methamphetamine, a Schedule II Controlled Substance, in violation of Title 21, United States Code, Section(s) 841(a)(1).

I further state that I am a(n) Officer, Harker Heights Police Department, and that this complaint is based on the following facts:

SEE ATTACHED AFFIDAVIT

continued on the attached sheet and made a part hereof: YES


JOHN A. MOSELEY, Officer
Harker Heights Police Department

Sworn to before me and subscribed in my presence,

May 1, 2013
Date
Jeffrey C. Manske
U.S. Magistrate Judge
Name & Title of Judicial Officer

Waco, Texas
City and State


Signature of Judicial Officer

AFFIDAVIT FOR ARREST

Affiant, John A. Moseley, has been a peace officer with the Harker Heights Police Department for more than 3 years and was previously a police officer with the Killeen Police Department for approximately 26 years. Affiant did retire from the Killeen Police Department in good standing. Affiant has been assigned to investigate narcotic related and other special crimes for more than 20 years of his criminal justice career. Affiant is a past field operations supervisor and Assistant Commander of the Central Texas Narcotics Task Force. Currently Affiant is assigned to the Bell County Organized Crime Unit. The Bell County Organized Crime Unit is a multi-agency investigative group tasked with the investigation of narcotic and other special crimes in the Bell County area. Affiant has participated in all facets and methods of investigation, including, but not limited to, electronic surveillance, physical surveillance, general questioning of witnesses, search warrants, confidential informants, pen registers and undercover investigations. During Affiant's tenure as a detective / police officer, your Affiant has conducted investigations ranging in scope from simple buy-bust operations to complex conspiracies. Affiant has participated and assisted in joint investigations with law enforcement agents of the Federal Drug Enforcement Administration, United States Customs and Immigration Service, Federal Bureau of Investigation, Texas Department of Public Safety and other law enforcement agencies in their investigations of individuals who traffic in illegal controlled substances.

On April 30, 2013, Agent John Moseley, with the Bell County Organized Crime Unit ("BCOCU"), was assisting members of the United States Marshal Service with the apprehension of Shannon Elliott. Elliott was being sought regarding a failure to appear warrant issued by the United States District Court in the Western District of Texas, Waco Division. An investigation into the whereabouts of Elliott revealed that she was likely at the home of HOWARD ELWOOD SUTTON. Moseley was familiar with HOWARD SUTTON and knew that he resided in Salado. Affiant had in the past participated in criminal investigations that linked HOWARD SUTTON to the distribution of illegal / controlled substances in the Bell County area.

At approximately 10:30 p.m., members of the United States Marshals Service, Temple Police Department and Affiant went to the residence of SUTTON. United States Deputy Marshal Anton Slavich, Temple Police Detective Josh Moore and Affiant went to the front door of the home. United States Deputy Marshals Mike May and Joe Bays went to the north side of the home. Deputies May and Bays reported that the fugitive, Shannon Elliott, was in the home and could be clearly seen within the residence. Officers knocked on the front door of the home which was answered by a female later identified as Stacey Benoit. Law enforcement identified themselves and told Ms. Benoit they were in possession of a federal felony arrest warrant for Shannon Elliott and that it was believed that Elliot was in the home. Benoit would not immediately acknowledge that Elliot was in the home. After a short period of time, Benoit asked if she could get Elliot and began to move away from officers. Shouting was heard in the back of the home and, at that time, officers entered the home. The home was cleared. HOWARD ELWOOD SUTTON was encountered in the master bedroom in the home. Mike Crouch was encountered as he emerged from the secondary bedroom in the home. HOWARD SUTTON told officers that Elliot was in the bathroom. Shannon Elliot was found locked in the hallway bathroom. Officers had to make forced entry into the bathroom finding Elliot standing at the sink swallowing handfuls of narcotics / pills.

Elliot was taken into custody in the master bathroom and, due to her ingestion of what officers suspected to be a large amount of controlled substances, an ambulance was requested. A protective sweep of the home was conducted to establish a safe environment for the officers on scene and the responding emergency medical personnel. During the sweep, Affiant observed a usable quantity of marijuana on the dresser in the master bedroom. The substance was in plain sight and was not concealed in any manner. The substance remained in the home, which was secured by law enforcement. Affiant asked HOWARD SUTTON for permission to search his home, which he denied.

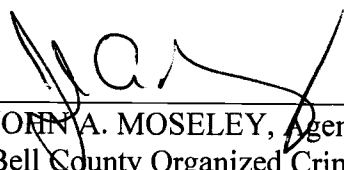
Affiant prepared a search warrant and supporting affidavit. The warrant and affidavit were presented to Judge Theodore Duffield, Justice of the Peace, Precinct 1, Bell County. Judge Duffield issued the warrant, which was then executed at the home.

HOWARD SUTTON and Stacey Benoit remained at the scene and were present when the warrant was executed. Subsequent to the search of the home, a black nylon case was found lying on the kitchen counter. The case was found to contain a glass smoking device and three plastic packets that contained approximately 2 grams of methamphetamine. In the master bedroom, officers found a black nylon case in a cabinet in the master bedroom. This case contained a scale and two plastic packets that contained approximately 26 grams of methamphetamine.

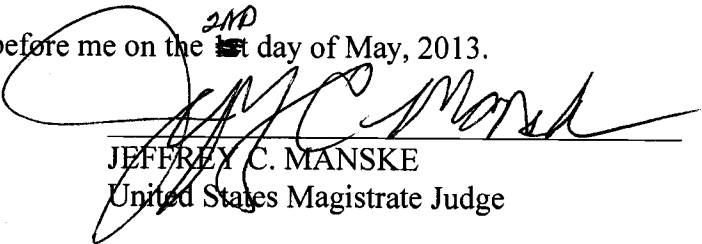
Other items recovered during the search included: (1) \$1,704 in U.S. Currency [\$1,404 of which was recovered from the person of HOWARD SUTTON], (2) a small quantity of marijuana (3) computer, ipad, cell phone and (4) ammunition.

SUTTON was encountered in the master bedroom. During the search, officers observed and photographed clothing and other items that indicated that SUTTON and Stacey Benoit resided in the bedroom. A secondary bedroom was searched and a plastic packet with approximately .5 grams of methamphetamine was recovered from a dresser drawer. Other items in the drawer and bedroom indicated that this room was inhabited by Mike Crouch. Crouch had denied residency at the time he was contacted by officers and stated that he lived in the Florence area.

The black nylon packet that contained methamphetamine and recovered from the home was in plain view on the kitchen counter. The bag sat next to a large propane torch that would likely be utilized to smoke methamphetamine. Based on my observations, it was apparent that methamphetamine was routinely consumed in the home, and that the consumption was likely done in common and private areas of the home and that methamphetamine was likely distributed from the home based on the presence of packaging materials, scales, and currency.


JOHN A. MOSELEY, Agent
Bell County Organized Crime Unit

SUBSCRIBED AND SWORN TO before me on the ^{2nd} day of May, 2013.


JEFFREY C. MANSKE
United States Magistrate Judge